

ORIGINAL

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FX PARTE OR LATE FILED

November 19, 1999

Notice of *Ex Parte* Presentation

Magalie Roman Salas, Esq.  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Salas:

Re: Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, and Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149.

On September 30, 1999, Representatives of SCC Communications Corp. (SCC) met with representatives of the FCC Staff and made certain allegations about the conduct of Southwestern Bell Telephone Company (SWBT) in Texas, related to SCC's efforts to establish an alternative 911 database in Texas. The ex parte letter filed by SCC is attached. Contrary to the allegations made in that letter, SWBT has worked extensively with the 911 agencies in Texas and with SCC to develop and test a technical arrangement that will facilitate the ability of 911 agencies to choose between securing 911 database service from SWBT or from alternative 911 database providers. To SWBT's knowledge, this is the first time that SCC or any other database provider has attempted to provide 911 database service in an environment where there would be two 911 databases operating concurrently serving the same area.

In other states where SCC provides 911 database service, it is provided to the ILEC which has outsourced the 911 database segment of the ILEC's 911 service to SCC. In other words, in those other service situations there is only one database serving a given area. The arrangement requested in Texas presented new technical issues that had to be resolved to ensure that the dual 911 database arrangement would work. Although there are delays inherent in such efforts that should be reasonably anticipated, SWBT has fully cooperated with SCC and the 911 agencies in setting up tests to determine whether the proposed solution would work for the provisioning of an alternative 911 database service arrangement.

SBC then arranged for a multi-party contact with the Commission Staff to seek concurrence that the service arrangement sought by SCC and the 911 agencies in Texas would not go beyond the scope of interLATA activities historically permitted for 911 service under §§271 and 272 of the Federal Telecommunications Act of 1996 (FTA96) and applicable waivers, including the February 2, 1989 Order granting BOCs a Waiver of the Modification of Final Judgment to

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Permit the BOCs to Provide MultiLATA 911 Service. Despite ongoing discussions with SCC, including discussion of a plan to seek the FCC's concurrence on the interLATA issues, SCC met with the FCC on September 30, 1999, to complain of SWBT's conduct on 911 matters. SWBT did not become aware of this contact until SBC representatives called FCC staff members to make arrangements for the joint meeting that included SWBT and SCC, as well as others.

In its October 1, 1999 ex parte letter, SCC raised various FTA issues ostensibly relating to SCC's attempt to provide alternative 911 database service in Texas. Principal among those allegations was the argument that SBC should be denied 271 relief because of its actions. Those allegations are false. First and foremost, SWBT is and has consistently been providing telecommunications carriers nondiscriminatory access to its 911 and E911 service in Texas through its existing interconnection agreements. It will also do so under the "T2A" interconnection agreement, which has been recently approved by the Texas PUC.

SCC did not approach SWBT seeking access to 911 as a "carrier." In fact, it is only within the past month that SCC has filed for certification as a Competitive Local Exchange Carrier (CLEC) in Texas; SCC has not yet been certificated. Further, contrary to the assertion made by SCC in its earlier contact, SWBT has complied with the FCC's 911 Forbearance Order<sup>1</sup> condition that it provide listing information to unaffiliated entities at the same rates, terms and conditions that it charges or imposes on itself. Thus, SWBT is and has been in full compliance with all applicable legal requirements, including 911 access to carriers and listing information to unaffiliated entities.

SWBT has, in addition to complying with the applicable legal requirements, gone even further and worked extensively with the 911 agencies and SCC to establish a technical arrangement that will facilitate the ability of 911 agencies to use competitive 911 databases in Texas. As mentioned earlier, SWBT has already negotiated unanimous agreements for interim relief in the Texas 911 tariff restructuring dockets, subject to the FCC Staff's concurrence that the arrangement is legal. Agreement has also been reached for a technical trial related to the SCC database functioning as a parallel 911 database and Phase I of that trial has already been completed. Finally, SBC is actively involved in the exploration of additional business arrangements that would facilitate other alternative database services, e.g. development of "Function of Change R"<sup>2</sup> and the negotiation of an interoperability agreement with SCC.

On October 28, 1999, representatives of SWBT and SCC, as well as other parties in the Texas docket, met with FCC staff jointly seeking concurrence that there are no federal legal requirements that will prevent implementation of the interim relief agreements in Texas. This concurrence is the last regulatory hurdle before the interim relief agreement signed by all of the

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<sup>1</sup> *In the Matters of Bell Operating Companies; Petitions for Forbearance from the Application of Section 272 of the Communications Act of 1934, As Amended, to Certain Activities*, CC Docket No. 96-149, 13 FCC Rcd. 2627, Released February 6, 1997.

<sup>2</sup> Function of Change R is a 911 database software enhancement that, upon completion, is expected to provide the capability to tag a 911 calling number so that it can be determined which 911 database is to be used to acquire 911 related information when more than one database is serving the area.

parties in the Texas 911 tariff restructuring dockets can be implemented. The October 29, 1999 ex parte letter filed by SBC is attached.

Pursuant to Sections 1.1206(b)(1) of the Commission's Rules, an original and four copies of this letter and attachments are being filed with the Office of the Secretary for inclusion in the public record in the above-referenced docket.

Questions regarding this matter may be referred to the undersigned.

Sincerely,

A handwritten signature in cursive script that reads "Chris Jones". The signature is written in black ink and is positioned below the word "Sincerely,".

Attachments

CC: Chairman Kennard  
Commissioner Furchgott-Roth  
Commissioner Ness  
Commissioner Powell  
Commissioner Tristani  
Audrey Wright  
David Kirschner

Christine Jines  
Director -  
Federal Regulatory

SBC Telecommunications, Inc.  
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 October 29, 1999

Notice of *Ex Parte* Presentation

Magalie Roman Salas, Esq.  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

Dear Ms. Salas:

**Re: Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102; and Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149**

Yesterday, the following parties met with Audrey Wright and David Kirschner of the Common Carrier Bureau of the FCC to discuss issues regarding the above mentioned dockets: Gary Buckwalter, Southwestern Bell Telephone Company (SWBT); Ron Huelsing, Richard Schanen, Barbara Hunt and Christine Jines of SBC; Rob Cohen, and Cindy Clugy of SCC Communications Corp.; James Casserly of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC, representing SCC Communications Corp.; Richard Muscat, representing the Commission on State Emergency Service (CSEC) in Texas and the Greater Harris County 911 Emergency Network; Lavern Hogan and John Melcher also representing the Greater Harris County 911 Emergency Network; and Lori Buerger of AT&T Wireless.

The parties presented two diagrams (copies attached). The first diagram depicts the current serving arrangement for 911 service in Texas when that service is provided as a complete service by Southwestern Bell Telephone Co. (SWBT). The second diagram depicts a proposed 911 service arrangement in Texas that accommodates an alternative 911 database provider. The joint position of the parties was that the prior MFJ waivers, the Justice Department letter of March 27, 1991, brought forward by 271(f), and the Forbearance Order covers, not only the existing arrangement, but also the alternative database serving arrangement.

Two issues regarding the diagrams were discussed with the FCC staff. The first issue is that SWBT's 911 tariff is being disaggregated to offer separate rate elements, so that the 911 agencies in Texas can pay for only those elements they desire to secure from SWBT, with the option of securing the remaining elements from competitive providers. The second issue is that the proposed serving arrangement involves SWBT extending existing circuits from the SWBT ALI database to the Alternative ALI database and could include new circuits from the PSAP to the Alternative ALI database. Either or both of those extended or new circuits could cross a LATA boundary, as depicted on the second diagram attached to this letter.

The parties jointly requested the concurrence of Commission staff that the proposed serving arrangement depicted on the second diagram is covered by the MFJ waiver, as interpreted by the Department of Justice by letter dated March 27, 1991, brought forward by 271 (f) of FTA96 and the Commission's Forbearance Order in CC Docket 96-149.

In accordance with the Commissions rules concerning *ex parte* presentations, one copy of this notice is provided. Questions may be referred to the undersigned at 202-326-8879.

Respectfully submitted,

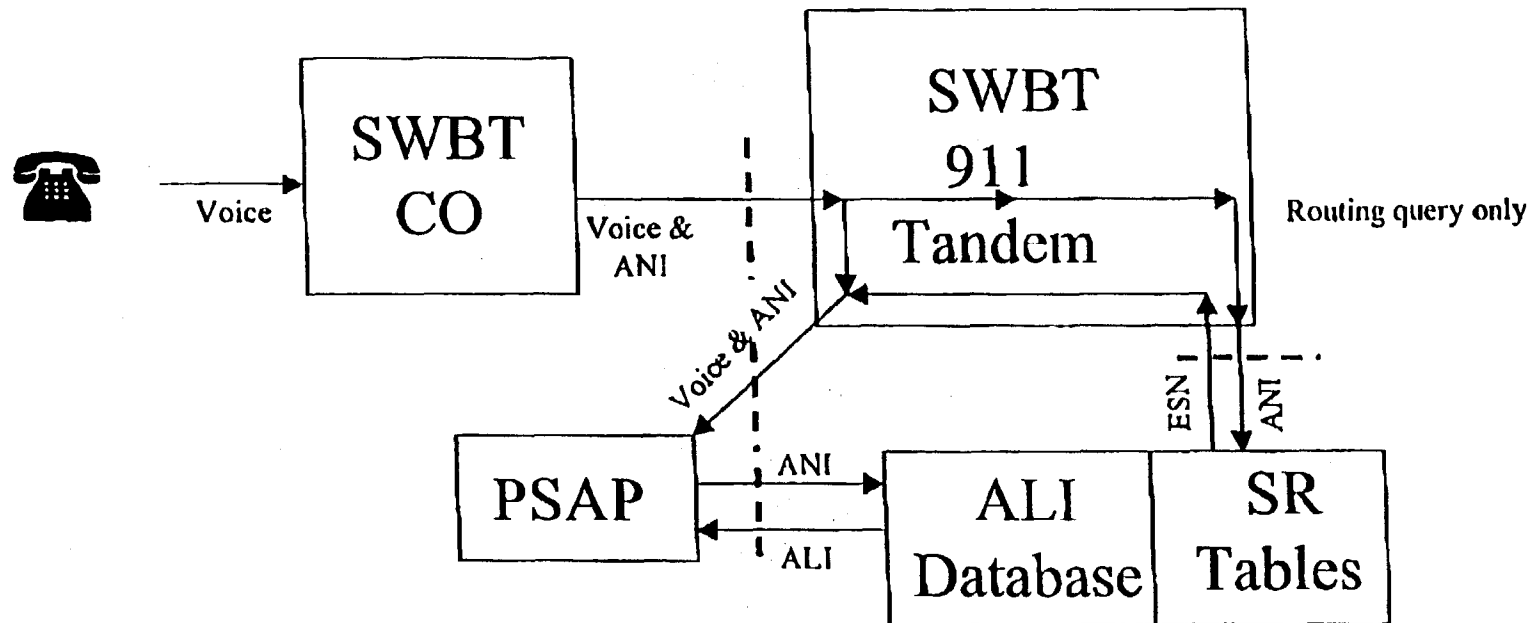
A handwritten signature in cursive script that reads "Chris Jones".

Attachments

CC: all parties in attendance

# SWBT E911 SERVICE CONFIGURATION - COVERED BY 271(f)

1



- - - - - potential LATA boundary

ANI - Automatic Number Identification

ESN - Emergency Service Number

ALI - Automatic location information

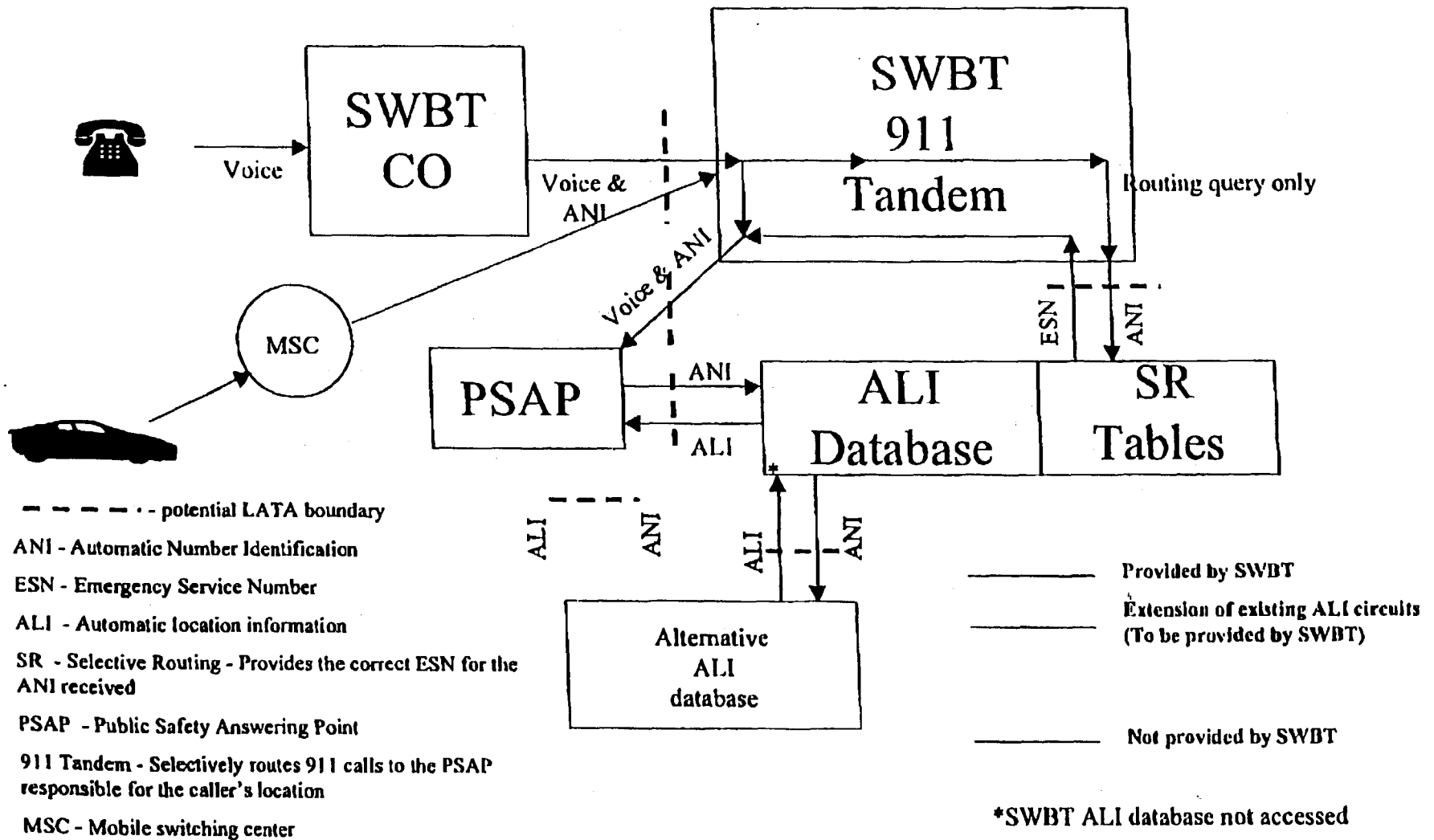
SR - Selective Routing - Provides the correct ESN for the ANI received

PSAP - Public Safety Answering Point

911 Tandem - Selectively routes 911 calls to the PSAP responsible for the caller's location

Provided by SWBT

# PROPOSED 911 ARRANGEMENT WITH ALTERNATIVE DATABASE PROVIDER



Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

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Washington, D.C. 20004

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October 1, 1999

HAND DELIVERY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**Ex Parte Presentation**

Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911  
Emergency Calling Systems

CC Docket No. 94-102

Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the  
Communications Act of 1934, as amended

CC Docket No. 96-149

Dear Ms. Salas:

On September 30, 1999, Robert Cohen, Vice President - Government Relations for SCC Communications, Missy Foxman, Manager- Government Relations for SCC Communications, Jim Casserly of this office, and the undersigned met with Bill Agee, Jessica Rosenworcel, John Stanley, and Audrey Wright of the Common Carrier Bureau to discuss matters related to the above-referenced dockets.

At the meeting, we discussed SCC's provision of E-911 services and issues involving Southwestern Bell Telephone Company that have arisen in connection with SCC's provision of E-911 services in Texas. The substance of our discussions is summarized in the attached memo and brochures, which were provided to the Common Carrier Bureau staff at the meetings.



Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

Ms. Magalie Roman Salas  
October 1, 1999  
Page 2

Pursuant to sections 1.1206(b)(1) and (b)(2) of the Commission's rules, an original and four copies of this letter and attachments are being filed with the Office of the Secretary. Copies of this letter without attachments are also being served on the Commission personnel that attended the meetings, and copies of this letter with attachments are being provided to each of the Commissioners.

Sincerely,

Michelle M. Mundt

cc: Chairman Kennard  
Commissioner Ness  
Commissioner Powell  
Commissioner Tristani  
Commissioner Furchtgott-Roth  
Bill Agee  
Jessica Rosenworcel  
John Stanley  
Audrey Wright

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## Discussion Outline for SCC Meetings with FCC Staff

*Despite making occasional concessions, SWBT has thwarted Texas public policy.*

- o Texas has formally instituted competition in the provision of E911 database management services.
- o SCC was awarded the E911 database management contract by the Commission on State Emergency Communications.
- o SWBT – the losing bidder on the Texas contract – has repeatedly obstructed SCC's efforts to fulfill its contractual responsibilities. The state public safety agencies have been compelled to seek relief from the Texas Public Utility Commission.

*Despite making occasional concessions, SWBT has violated the Commission's E911 forbearance order.*

- o The Commission recognized that E911 is an information service, that the BOCs have long been dominant in the provision of 911 and E911 services, that unaffiliated entities may wish to compete with the BOCs to provide E911 services, and that they cannot hope to do so unless they have access to the same subscriber listing information (including unlisted and unpublished numbers as well as the numbers of other LECs' customers) that are maintained in the BOCs' ALI databases. E911 Forbearance Order at paras. 17-22, 31.
- o The Commission ruled that BOCs may provide E911 on an integrated basis but only if the substance of the 272(c)(1) nondiscrimination requirement is maintained. Accordingly, the Commission conditioned its forbearance from Section 272 on the requirement that RBOCs provide listing information to unaffiliated entities "at the rates, terms, and conditions, if any, that they charge or impose on themselves." Paras. 32-34.
- o SWBT has failed to meet this requirement. It has resisted SCC's requests for subscriber list information, on the basis of frivolous claims that are inconsistent with the explicit requirements of the forbearance order.

*Despite making occasional concessions, SWBT's conduct raises public interest concerns that should be remedied before SBC is allowed to offer interLATA services.*

- o Because it has not complied with the terms of the forbearance decision, SBC's interLATA E911 activities violate Section 272.
- o The forbearance order should be reopened and additional safeguards prescribed (e.g., requiring RBOCs to route emergency calls using state-selected E911 database providers) to ensure that the interests of public safety and of competition in this kind of information service are advanced.
- o SWBT's refusal to comply with an explicit FCC order or to cooperate with State of Texas public safety agencies makes it impossible to determine that an SBC 271 application would serve the public interest. Nor can SBC prove compliance with Section 272 unless and until it meets the requirements of the forbearance order.
- o SWBT's conduct prevents it from meeting the 271 competitive checklist because it has not provided competitors access to its 911 and E911 services in the same manner that SWBT obtains such access, i.e., at parity. For example, SWBT has prevented wireless carriers, or SCC on their behalf, from interconnecting with its systems or accessing its ALI databases, even though such a refusal prevents wireless carriers from providing Phase I service in the SWBT's service areas.

